

STATUTORY EMPLOYEES (AGENT/COMMISSION DRIVERS, TRAVELING/CITY SALESPERSONS, CONSTRUCTION WORKERS, HOMEWORKERS, ARTISTS, AND AUTHORS)

A "statutory" employee is defined as an employee by law under specific statutes whereas most individuals are determined to be an employee under "common law" (see form DE 231, INFORMATION SHEET: EMPLOYMENT). However, certain groups of workers have been specifically covered by the law for unemployment insurance, employment training tax and disability insurance purposes.

California personal income tax withholding is not required if a statutory worker does not meet the common law tests for an employee, **except** for statutory employees in the construction industry and corporate officers who are residents of California or nonresidents performing services in California.

Workers covered under specific statutes include individuals working for an employer in a continuing relationship as:

- An agent-driver or commission-driver engaged in distributing meat, vegetable, fruit, or bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his/her principal.
- A traveling or city salesperson (other than an agent or commission driver), working full-time on behalf of their principal (except for sideline activities on behalf of some other person), taking orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies to be used for their own business operations.
- A homeworker performing work (according to specifications furnished by the person for whom the services are performed) on materials or goods furnished by that person which are required to be returned to that person or a person designated by him/her.

Services provided by the groups listed above are covered if:

- A substantial amount of the work is personally performed.

- The person performing the work does not have a substantial investment in the facilities used in the performance of those services (other than the facilities for transportation).
- The services are not in the nature of a single transaction.

Refer to DE 231N, Information Sheet: Salespersons, for more detailed information.

STATUTORY EMPLOYEES IN THE CONSTRUCTION INDUSTRY:

Any individual not holding a valid contractor's license but performing services requiring a contractor's license will be considered an employee of the licensed or unlicensed contractor who has hired such an individual.

Refer to DE 231G, Information Sheet: Construction Industry, for more detailed information.

ARTISTS AND AUTHORS AS STATUTORY EMPLOYEES:

- In the motion picture, radio, or television industry an artist or author is a statutory employee if:
 - The individual's work is done under a collective bargaining agreement in which he/she is defined as an employee, and
 - The employer has the right to control and direct the services to be performed.
- The author of a commissioned or specifically ordered work is a statutory employee of the person commissioning the work if:
 - Under written agreement specifying that the work is made for hire, and
 - The commissioning party obtains ownership of the work.

For more information, please contact our Employment Tax Customer Representative at 1-888-745-3886 or visit our Web site at www.edd.ca.gov. For TTY (nonverbal) access, call 1-800-547-9565.

Equal Opportunity Employer/Program. Auxiliary services and assistance available to persons with disabilities.